

New York City Department of Sanitation
Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? DSNY is proposing to amend its rules regarding the residential collection of designated recyclable materials to require the source separation of organic waste.

When and where is the hearing? DSNY will hold a public hearing on the proposed rule. The public hearing will take place via Webex at 10:00AM on August 10, 2023 using the following link:

<https://departmentofsanitationnewyork.my.webex.com/departmentofsanitationnewyork.my/j.php?MTID=m6a2d90b34947a84b731fe6d5bcf6e42e>

Thursday, August 10, 2023 10:00 AM

Meeting number: 2632 721 0812

Password: mMMmnBXc745 (66666292 from phones and video systems)

Join by video system

Dial 26327210812@webex.com

You can also dial 173.243.2.68 and enter your meeting number.

Join by phone

+1-408-418-9388 United States Toll

Access code: 263 272 10812

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DSNY through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to nycrules@dsny.nyc.gov.
- **Mail.** You can mail written comments to DSNY, 125 Worth Street, Room 710, New York, NY 10013.
- **Fax.** You can fax written comments to DSNY at 212-788-3876.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing miguori@dsny.nyc.gov by August 9, 2023. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign-up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? The deadline for submitting written comments shall be August 10, 2023.

What if I need assistance to participate in the hearing? You must tell the Bureau of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us or by telephone at (646) 885-4996. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by August 3, 2023.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at 125 Worth Street, Room 710, New York, NY 10013 and on DSNY's website.

What authorizes DSNY to make this rule? Sections 753 and 1043(a) of the New York City Charter and section 16-308.1 of the New York City Administrative Code authorize DSNY to make this proposed rule. This proposed rule was not included in DSNY's regulatory agenda for this Fiscal Year because it was not contemplated when DSNY published the agenda.

Where can I find the DSNY's rules? DSNY's rules are in Title 16 of the Rules of the City of New York.

What laws govern the rulemaking process? DSNY must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose

Intro. No. 244-A of 2023, which became law on July 8, 2023, requires the Department of Sanitation (DSNY) to establish a mandatory citywide organics collection program. This program will make the source separation of residential organic waste in the City of New York mandatory. The law requires DSNY to implement the mandatory organics collection program in 30 residential sanitation districts by October 2, 2023, and all remaining sanitation districts by October 7, 2024. This proposed rule designates such sanitation districts, in accordance with designations made for the source separation of yard waste in rules promulgated earlier this year. The rule also specifies the types of containers in which organic waste must be placed curbside and expands existing requirements related to recyclable materials for residential buildings containing four or more units to apply to organic waste.

In addition to implementing the law's requirements related to mandatory organics collection, this proposed rule implements changes related to yard waste collection made by the law, including extending mandatory yard waste separation requirements year-round, rather than for eight months out of the year. This rule also allows for the use of plastic bags for the disposal of designated yard waste and clarifies that yard waste cannot be commingled with organics if set out in paper or plastic bags. Previously, yard waste was not allowed to be disposed in plastic bags, and there was no rule regulating whether yard waste and organics could be comingled.

New material is underlined.

[Deleted material is in brackets.]
Asterisks (***) indicate unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (b) of Section 1-08 of Title 16 of the rules of the city of New York is amended to read as follows:

(b) *Implementation.*

(1) The requirement that a specific designated recyclable material be source separated shall be scheduled and implemented by the Department on a citywide basis.

(2) Notwithstanding paragraph (1) of this subdivision, the source separation of yard waste [shall be required from March first to July thirty-first and from September first to November thirtieth in districts designated by the Commissioner on the timetable] and organic waste shall be required in the designated districts and on the designated timetable set forth in subdivision (k) of this section.

(3) Notwithstanding paragraph (1) of this subdivision, [the source separation of organic waste other than yard waste shall be on a voluntary basis; however,] organic waste may be commingled with yard waste [pursuant to paragraph (2) of this subdivision].

§2. Subdivision (e) of Section 1-08 of Title 16 of the rules of the city of New York is amended to read as follows:

(e) *Recycling containers.*

(1) *Rigid containers for curbside recycling collection service:*

(i) *Rigid containers for designated recyclable paper:* Designated recyclable paper may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of 55 gallons in capacity; (B) covered by a lid; and (C) clearly labeled with the words "Recycling: Mixed Paper", or some variation thereof, in letters no less than four inches in height. Alternatively, decals may be used to label containers. The Department recommends, but does not require, that rigid containers for curbside recycling collection of designated recyclable paper be green in color.

(ii) *Rigid containers for designated recyclable metal, glass and plastic:* Designated recyclable metal, glass and plastic may be placed out for curbside collection in rigid containers provided such containers are: (A) a minimum of 18 and a maximum of 55 gallons in capacity; (B) covered by a lid; and (C) clearly labeled with the words "Recycling: Metal, Glass and Plastic", or some variation thereof, in letters no less than four inches in height. Alternatively, Department decals may be used to label containers. The Department recommends, but does not require, that rigid containers for curbside recycling collection of designated recyclable metal, glass and plastic be blue in color.

(iii) *Rigid containers for designated yard waste:* Designated yard waste may be placed out for curbside collection in rigid containers, provided that such containers are: (A) a minimum of 13 and a maximum of 55 gallons in capacity and (B) clearly labeled with the words “Yard Waste” or some variation thereof, in letters no less than four inches in height. Alternatively, Department decals may be used to label containers.

(iv) *Rigid containers for designated organic waste:* Designated organic waste may be placed out for curbside collection in containers that are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) covered by a tight-fitting lid; and (C) clearly labeled with the words “Organic Waste” or some variation thereof, in letters no less than four inches in height. Alternatively, Department decals may be used to label containers. Containers for organic waste may be lined with a clear plastic bag.

(2) *Plastic bags for curbside collection service:*

(i) *Plastic bags for designated recyclable paper:* Designated recyclable paper consisting of mixed paper may be placed out for curbside collection in plastic bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; and (C) constructed of low density polyethylene or linear low density polyethylene.

(ii) *Plastic bags for designated recyclable metal, glass and plastic:* Designated recyclable metal, glass and plastic may be placed out for curbside collection in plastic bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; and (C) constructed of low density polyethylene or linear low density polyethylene.

(iii) *Plastic bags for designated yard waste:* Designated yard waste may be placed out for curbside collection in plastic bags, provided such bags are: (A) a minimum of 13 and a maximum of 55 gallons in capacity; (B) clear and not colored; and (C) constructed of low density polyethylene or linear low density polyethylene. Designated yard waste commingled with designated organic waste may not be placed out for collection in plastic bags.

(3) *Containers for mechanized collection service of designated recyclable paper:* Containers for mechanized collection must be capable of being serviced by Department collection vehicles. Containers used for mechanized collection of designated recyclable paper must be white in color. Containers must be clearly labeled to indicate designated recyclable paper may be properly placed therein. In conjunction with its determination to provide mechanized collection service under subdivision (d) of this section, the Department may supply additional specifications for containers for mechanized collection service, and shall provide information as to where containers that comply with Department specifications may be purchased.

(4) *Paper bags for designated yard waste:* Designated yard waste may be placed in two-ply wet strength stock (fifty pounds each ply) leak-proof paper bags. Such bags must not exceed 16 inches in length by 12 inches in width by 35 inches in height, and must have a minimum capacity of 30 gallons and a maximum capacity of 55 gallons. Designated yard waste commingled with designated organic waste may not be placed out for collection in paper bags.

§3. Paragraph (3) of subdivision (f) of section 1-08 of Title 16 of the rules of the city of New York is amended to read as follows:

(3) *Separation of designated yard waste [or] and designated organic waste.* The owner, net lessee, or person-in-charge of a residential building containing four or more dwelling units must, in accordance with all applicable laws, codes and rules and regulations:

(i) designate a storage area or areas in the building that is reasonably accessible to building residents for the pre-collection storage of yard waste [or] and organic waste. If reasonably accessible storage space is not available in the building, and such space is available behind the building's property line, such space behind the property line may be designated for the pre-collection storage of designated recyclable materials;

(ii) maintain the storage area(s) and store yard waste [or] and organic waste so as not to create a nuisance or sanitary problem; and

(iii) provide a sufficient number of containers in each storage area so as to prevent spillover from containers and to avoid the improper disposal of yard waste [or] and organic waste. Such recycling containers must be clearly labeled with letters of a conspicuous size to indicate that yard waste [or] and organic waste may be properly placed therein, but are not required to comply with subdivision (e) of this section provided such containers are not placed at the curbside for collection. Storage areas need not be accessible to building residents in buildings in which designated recyclable materials are collected at individual dwelling units or at accessible locations other than the designated storage area.

§4. Subdivision (h) of section 1-08 of Title 16 of the rules of the city of New York is amended to read as follows:

(h) *Collection procedures for designated recyclable and other materials.* The owner, resident, net lessee, or person-in-charge of a residential building must be responsible for the following. The responsibilities set forth in this subdivision shall also apply to residents of buildings containing three dwelling units or less in which as a matter of regular practice the resident is responsible for bringing his/her solid waste to curbside for collection:

(1) *Designated recyclable metal, glass and plastic:*

(i) *Curbside collection service.* Designated recyclable metal, glass and plastic (other than bulk metal or bulk plastic) that is collected for recycling via curbside recycling collection service must be placed at curbside in containers or plastic bags complying with subparagraphs (e)(1)(ii) or (e)(2)(ii) of this section on the day(s) specified for recycling collection by the Commissioner. Bulk metal and bulk plastic must be placed next to such containers on such days.

(ii) *Mechanized collection service.* Owners, net lessees or persons-in-charge must call their district garage to make arrangements for recycling collection of bulk metal and bulk plastic.

(2) *Designated recyclable paper:*

(i) *Curbside collection service.* Newspaper, magazines, catalogs, phone books and corrugated cardboard that are collected via curbside collection service must be placed out for collection in securely tied bundles. Bundles must not exceed eighteen inches in height. Mixed paper required to be recycled must be placed out for curbside collection in rigid containers or plastic bags complying with subparagraphs (e)(1)(i) or (e)(2)(i) of this section. Other designated recyclable paper (i.e., newspapers, magazines, phone books, and corrugated cardboard) must be placed out for curbside collection in such rigid containers or plastic bags or in securely tied

bundles, which must not exceed eighteen inches in height. Corrugated cardboard must be broken into small pieces (no larger than 9 inches by 11 inches) before being placed into rigid containers or plastic bags.

(ii) *Mechanized collection service.* Designated recyclable paper that is collected via mechanized collection service must be placed in containers complying with paragraph (e)(3) of this section. Corrugated cardboard must be collapsed and placed into containers in a manner which will enable such material to fall freely from containers during collection. On the day of collection, containers must be placed in an area determined by the Commissioner to be accessible to Department vehicles.

(3) *Designated yard waste and designated organic waste.* On day(s) specified for recycling collection by the Commissioner, designated organic waste [yard waste] that is collected via curbside collection must be placed at curbside in containers complying with subparagraph (e)(1)(iv) of this section. Additionally, designated yard waste must be placed at curbside in containers complying with subparagraph (e)(1)(iii) of this section, plastic bags complying with subparagraph (e)(2)(iii) of this section, or paper bags complying with [subparagraph (e)(1)(iii) or] paragraph (e)(4) of this section or be commingled with designated organic waste in containers complying with subparagraph (e)(1)(iv) of this section.

(4) Materials that are not required to be source separated for recycling must be removed from both curbside and mechanized collection recycling containers and bags prior to recycling collection day.

(5) *Designated recyclable materials.*

(i) Designated recyclable materials that have been source separated as required by subdivision (g) of this section must not be placed out for collection in the same container as solid waste or organic waste.

(ii) Notwithstanding subparagraph (i) of this paragraph, designated yard waste may be placed out for collection in the same container as designated organic waste in accordance with subparagraph [(h)(3)(ii)] (e)(1)(iv) of this section.

(6) The owner of any residential building or mixed use building who has arranged for private carter removal service of all or some recyclables generated at such building pursuant to section 16-461 of the administrative code of the city of New York, and seeks to reinstate department collection service for such recyclables at the building, must notify the department's Collection Office in writing requesting the restoration of department recycling collection service to the building not less than sixty days prior to the discontinuation of the building's private carter removal service for such recyclables.

§5 Subdivision (k) of Section 1-08 of Title 16 of the rules of the city of New York is amended to read as follows:

(k) *Designation of districts for the required source separation of designated yard waste and designated organic waste.* Pursuant to [subdivision (b) of section 16-308] section 16-308.1 of the Administrative Code, the commissioner designates the following districts that will be required to source separate yard waste and organic waste on or after the dates specified in this section:

(1) all districts in the borough of Queens (14 districts) on the effective date of this rule.

- (2) all districts in the borough of Brooklyn (18 districts) on October 2, 2023.
- (3) all districts in the boroughs of Staten Island (3 districts) and the Bronx (12 districts) on March 25, 2024.
- (4) all districts in the borough of Manhattan (12 districts) on October 7, 2024.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Relating to Source Separation of Yard Waste

REFERENCE NUMBER: 2023 RG 038

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Senior Counsel

Date: July 3, 2023

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Relating to Source Separation of Yard Waste

REFERENCE NUMBER: DSNY-33

RULEMAKING AGENCY: Department of Sanitation

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because the violations pose significant risks to public health.

/s/ Grace M. Francese
Mayor's Office of Operations

July 5, 2023
Date